

## **REMARKS**

In this reissue application, original patent claims 1-15 remain pending. New claims 16-20 were previously added, after which claims 17-20 were cancelled. New claims 21-46 were then added.

Claims 1-16 and 21-46 were pending and stand rejected.

Claims 21, 23, 27-28, 31, 33-34, 36, 40-41, 44, and 46 have been amended.

Claims 1-16 and 21-46 are pending upon entry of this amendment.

Applicant amended claims 23, 28, 36, and 41 in order to more particularly define the invention. Specifically, the word “endpoints” was replaced by the word “entities” and the word “endpoint” was replaced by the word “entity.” Support for this amendment can be found in the specification of the issued patent at, for example, column 13, line 36. The amendments were not necessitated by the claim rejections. Applicant makes no admission as to the patentability or unpatentability of the previously-pending claims.

The remarks presented herein are in response to the non-final Office Action mailed October 23, 2007.

### **Rejection under 35 USC 251**

Claims 1-16 and 21-46 were rejected as being based upon a defective reissue declaration under 35 USC 251. On January 25, 2008, the undersigned attorney left a voicemail for the Examiner regarding this rejection. On January 28, 2008, the Examiner left a voicemail for the undersigned attorney stating that this rejection could be overcome by submitting a supplemental reissue oath/declaration signed by the inventor. Applicant hereby submits a supplemental reissue oath/declaration signed by the inventor.

### **Rejection under 35 USC 112, first paragraph**

Claims 21-46 were rejected under 35 USC 112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Examiner stated that the claims contained subject matter that was not described in the specification.

Regarding claims 21-46, the Examiner stated that the specification did not disclose “said first entity multicasting a request message to said plurality of second entities over a communication channel.” Applicant respectfully traverses. Claims 21, 33-34, and 46 have been amended to change “multicasting” to “transmitting” and to change “a communication channel” to “a multicast communication channel.” Support for this amendment can be found in the specification of the issued patent at, for example, column 2, lines 25-32. Claims 21, 33-34, and 46 now comply with 35 USC 112, first paragraph. Claims 27-28 and 40-41 have been amended to change “multicasting” to “transmitting” and now comply with 35 USC 112, first paragraph. Claims 31 and 44 have been amended to change “multicasting” to “transmitting the request message” and now comply with 35 USC 112, first paragraph. The remaining rejected claims depend from claims 21 and 34, respectively, and also comply with 35 USC 112, first paragraph.

Regarding claims 27 and 40, the Examiner stated that the specification did not disclose “selecting ... a multicast address which is used for said act of multicasting the request message.” Applicant respectfully traverses. Claims 27 and 40 have been amended to change “selecting” to “retrieving.” Support for this amendment can be found in the specification of the issued patent at, for example, column 21, lines 49-50. Claims 27 and 40 now comply with 35 USC 112, first paragraph.

Regarding claims 28 and 41, the Examiner stated that the specification did not disclose “determining whether each of said plurality of second endpoints is coupled to said first endpoint via a communication medium.” Applicant respectfully traverses. Claims 28 and 41 have been amended to change “determining whether each of said plurality of second endpoints is

coupled to said first endpoint via a communication medium” to “determining whether a same communication medium couples each of said plurality of second entities to said first entity.” Support for this amendment can be found in the specification of the issued patent at, for example, column 21, lines 41-43. Claims 28 and 41 now comply with 35 USC 112, first paragraph.

Regarding claims 31 and 44, the Examiner stated that the specification did not disclose “first message ... and said second messages ... are both transmitted before said act of multicasting.” Specifically, the Examiner stated that while the specification disclosed that capabilities of the endpoints are exchanged prior to setting up a conference, the specification did not disclose that the conference was using multicasting. Applicant respectfully traverses. As discussed above, claims 31 and 44 have been amended to change “multicasting” to “transmitting the request message” and now comply with 35 USC 112, first paragraph.

Regarding claims 32 and 45, the Examiner stated that the specification did not disclose “first message ... and said second messages ... are both transmitted before establishing said point-to-point mode.” Specifically, the Examiner stated that while the specification disclosed that capabilities of the endpoints are exchanged prior to setting up a conference, the specification did not disclose that the conference was using point-to-point mode. Applicant respectfully traverses. In claim 32, “said point-to-point mode” refers to the point-to-point mode introduced in the preamble of claim 21 (“a first entity and a plurality of second entities in a network are operating in a *point-to-point mode*”). Similarly, in claim 45, “said point-to-point mode” refers to the point-to-point mode introduced in the preamble of claim 34 (“a first entity and a plurality of second entities in a network are operating in a *point-to-point mode*”). Support for this language can be found in the specification of the issued patent at, for example, column 12, lines 11-12. Thus, the Examiner’s rejection is improper. Claims 32 and 45, which have not been amended, comply with 35 USC 112, first paragraph.

Rejection under 35 USC 103(a)

Claims 21-26, 29-30, 33-39, 42-43, and 46 were rejected under 35 USC 103(a) as being unpatentable over Alvarez in view of Auerbach. Applicant respectfully traverses. As amended, claim 21 recites:

In a system wherein a first entity and a plurality of second entities in a network are operating in a point-to-point mode, with each of said second entities connected by a point-to-point communication channel with said first entity, an automatic method for optimizing a mode of transmission of data between said plurality of second entities and said first entity, the method comprising the following steps:

- a. said first entity transmitting a request message to said plurality of second entities over a multicast communication channel, said request message being used to initiate transition from said point-to-point mode to a multicast mode;
- b. said first entity receiving from certain of said plurality of second entities an acknowledgment message in response to said request message, said acknowledgment message indicating that each of said certain of said plurality of entities was able to receive said request message; and
- c. for each said acknowledgment message received from said certain of said plurality of second entities which indicates that said certain of said plurality of second entities can receive said request message, deactivating said point-to-point communication channel between said first entity and said certain of said plurality of second entities.

Neither Alvarez nor Auerbach discloses, teaches, or suggests the claimed element “for each said acknowledgment message received from said certain of said plurality of second entities which indicates that said certain of said plurality of second entities can receive said request message, deactivating said point-to-point communication channel between said first entity and said certain of said plurality of second entities” (emphasis added).

Alvarez discusses time domain multiple access (TDMA) broadcasting, multipoint, and conferencing communications (title). Applicant agrees with the Examiner that Alvarez does not explicitly disclose the claim language “for each said acknowledgement message received ... deactivating said point-to-point communication channel between said first entity and said certain of said plurality of second entities.”

The Examiner argues that Alvarez implies this claim language (Detailed Action, p. 6). Specifically, the Examiner states that in Alvarez, “the import intranodal buffers are set to the same partition” (Detailed Action, p. 6). The Examiner argues that setting the buffers to the same partition disables the ability of the intranodal buffers to participate in duplex communication, thereby deactivating any point-to-point communication channel (Detailed Action, p. 6).<sup>1</sup> Applicant disagrees.

On February 25, 2008, the Examiner and the undersigned attorney had a telephone interview during which they discussed claim 21 and Alvarez. Applicant explained that just because the parties share the same intranodal buffer partition does not mean that the parties cannot also use a point-to-point communication channel. Alvarez explicitly states that “both point-to-point and multipoint, broadcast and conferencing connections can be made simultaneously, both intranodally and internodally” (emphasis added; 4:22-24).

Applicant also reiterated that claim 21 recites deactivating a point-to-point communication channel. Even if Alvarez disclosed that once an intranodal conference connection exists, intranodal point-to-point functionality is not available, this still would not show the deactivation of a point-to-point communication channel.

Thus, Alvarez does not imply the claim language “for each said acknowledgement message received ... deactivating said point-to-point communication channel between said first entity and said certain of said plurality of second entities.”

Auerbach does not remedy this deficiency. Auerbach discusses routing packets through a multicast network communication system using a multicast distribution tree (abstract). Specifically, Auerbach discusses administration of the communication path that makes

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<sup>1</sup> Although the Examiner gives no citation within Alvarez, the Examiner appears to be referring to Alvarez’ description of how intranodal conferencing connections work (4:1-17). In Alvarez, when two or more parties associated with the same conference are in the same node, the parties share the same intranodal buffer partition (4:3-5).

up the multicast distribution tree (abstract). A Tree Leader (TL) computes a tree distribution path (i.e., maps out a tree) that covers a group of nodes (abstract; 5:62; FIG. 7A, element 59). The TL then sends a tree setup request message along each path of the tree to each node (abstract; 5:60-61; FIG. 7A, element 65; 8:39-43). This Tree Request message creates or extends a distribution tree by marking the various outgoing ports or connections points at each link and node within the network (5:45-48, 63-65; FIG. 7A, element 64). The message requests that each node mark the transmission links, intranode links, and terminal boundaries with a particular tree address that has been identified and negotiated as unique for that tree for all of the nodes which it encompasses at a given time (5:65-6:3).

Each node returns a message indicating whether the tree address is already in use or is available for use (abstract). If all of the received replies are positive, the TL starts sending a tree refresh message to confirm the markings for the tree paths (8:60-62). This Tree Refresh message refreshes the marks for the links with the known tree address (5:49-51). The Tree Refresh message also indicates that the nodes at any tree addresses marked on any transmission links, intranode links, or terminal boundaries remain in effect (9:58-62).

Auerbach does not disclose, teach or suggest the claim language “for each said acknowledgement message received ... deactivating said point-to-point communication channel between said first entity and said certain of said plurality of second entities.” The examiner argues that the claimed element “acknowledgement message” corresponds to Auerbach’s message that indicates whether the tree address is already in use or is available for use (Detailed Action, p. 7). Auerbach does not disclose, teach, or suggest deactivating a point-to-point communication channel for each such message received. In fact, Auerbach does not disclose, teach, or suggest deactivating a point-to-point communication channel at all.

Thus, neither Alvarez nor Auerbach discloses, teaches, or suggests the claimed element “for each said acknowledgment message received from said certain of said plurality of

second entities which indicates that said certain of said plurality of second entities can receive said request message, deactivating said point-to-point communication channel between said first entity and said certain of said plurality of second entities.”

Therefore, claim 21 is patentable over Alvarez and Auerbach, alone and in combination. Independent claims 33-34 and 46 recite similar language and are also patentable over Alvarez and Auerbach, alone and in combination, for at least the same reason.

The claims not specifically mentioned above depend from claims 21 or 34 (directly or indirectly), which were shown to be patentable over Alvarez and Auerbach, alone and in combination. In addition, these claims recite other patentable features which further distinguish them from Alvarez and Auerbach. Thus, these claims are patentable over Alvarez and Auerbach, alone and in combination, for at least the reasons discussed above, as well as for the patentable limitations recited therein.

Applicant respectfully submits that the pending claims are allowable over the cited art of record and requests that the Examiner allow this case. The Examiner is invited to contact the undersigned in order to advance the prosecution of this application.

Respectfully submitted,  
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